

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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EDWARD D. SWANK,

ORDER

Petitioner,

11-cv-41-bbc

v.

THE PEOPLE OF THE STATE OF WISCONSIN,

Respondent.

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In response to this court's order entered January 22, 2011, petitioner Edward Swank has submitted a copy of his trust fund account statement so that a determination may be made whether he is indigent for the purpose of proceeding in forma pauperis. In determining whether to allow a prisoner to proceed in forma pauperis, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay at least a portion of the filing fee. According to the trust account statement, in the past six months, petitioner's monthly deposits have averaged \$12.18. Twenty percent of this figure is \$2.43. Accordingly, I will grant petitioner's application for leave to proceed in forma pauperis on the condition that he prepay \$2.43.

ORDER

IT IS ORDERED that the request of Edward Swank, for leave to proceed in forma pauperis is GRANTED on the condition that he prepay the amount of \$2.43. Petitioner has until March 8, 2011 to pay this amount. If he fails to submit the partial filing fee by March 8, 2011, his petition may be dismissed for failure to prosecute it.

Entered this 14th day of February, 2011.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge